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- Defendant conducts business in the Commonwealth of New Jersey and as such, personal jurisdiction is established.
  - 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

#### **PARTIES**

- 5. Plaintiff is a natural person residing in Union City, New Jersey 07087.
- 6. Plaintiff is a "consumer" as that term is defined by 15 U.S.C. § 1692a(3).
- 7. Defendant is a national debt collection company with corporate headquarters located at 2651 Warrenville Road, Suite 500, Downers Grove, IL 60515.
- 8. Defendant is a "debt collector" as that term is defined by 15 U.S.C. § 1692a(6), and repeatedly contacted Plaintiff in an attempt to collect a debt.
- 9. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

#### **FACTUAL ALLEGATIONS**

- 10. At all relevant times, Defendant was attempting to collect an alleged consumer debt from Plaintiff, related to a cable debt from 2014.
- 11. The debt at issue arose out of transactions, which were primarily for personal, family, or household purposes.
- 12. Between June 2015 and November 2015 Defendant's collectors placed repeated harassing telephone calls to Plaintiff on his cellular telephone.
- 13. Defendant's harassing debt collection calls derived from numbers including, but not limited to (646) 588-0933. The undersigned has confirmed that this number belongs to the Defendant.
  - 14. On numerous occasions, Defendant's collector's called Plaintiff at least two (2) or

three (3) times per day.

- 15. Plaintiff spoke with Defendant's collectors on several occasions and told them to stop calling his cellular telephone.
  - 16. Defendant acknowledged Plaintiff's request.
  - 17. However, Defendant continued to call Plaintiff.
- 18. Once Defendant was aware that its calls were unwanted any further calls could only have been for the purpose of harassment.
- 19. Further, Defendant's telephone calls were placed at times known to be inconvenient, including before 8:00 A.M. and after 9:00 P.M.
- 20. After Defendant continued to call Plaintiff repeatedly on his cellular telephone, Plaintiff was forced to block calls from Defendant's phone numbers.
- 21. Defendant's actions as described herein were made with the intent to harass, upset and coerce payment from Plaintiff.

# COUNT I <u>DEFENDANT VIOLATED §1692d OF THE FDCPA</u>

- 22. A debt collector violates §1692(d) of the FDCPA by engaging in conduct the natural consequence is to harass, oppress, or abuse any person in connection with the collection of a debt.
- 27. Defendant violated §1692(d) when it placed repeated and harassing telephone calls to Plaintiff and continued to call Plaintiff after Plaintiff requested calls stop.

## COUNT II DEFENDANT VIOLATED §1692d(5) OF THE FDCPA

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	28.	A deb	t collecto	r violates	§1692 (	(d)(5)	of the	FDCP	A by	causing	a tele	phone t
ring o	r engagi	ng any	person in	telephon	e conver	sation	repeate	edly o	r conti	nuously	with t	the inter
to ann	oy, abus	e or ha	rass any p	erson at t	he called	d numb	er.					

29. Defendant violated §1692 (d)(5) of the FDCPA when it placed repeated harassing telephone calls to Plaintiff on her cellular telephone with the intent to annoy, abuse or harass Plaintiff.

## **COUNT III DEFENDANT VIOLATED §1692c(a)(1) OF THE FDCPA**

- 30. Defendant violated §1692c(a)(1) of the FDCPA when it contacted Plaintiff on his cellular telephone time known to be inconvenient, including before 8:00AM and/or after 9:00PM.
- 31. Plaintiff received calls from Defendant during times that were known to be inconvenient, including before 8:00AM and/or after 9:00PM.

WHEREFORE, Plaintiff, MICHAEL SCHWARTZ, respectfully pray for a judgment as follows:

- a. All actual compensatory damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);
- b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant to 15 U.S.C. § 1692k(a)(2)(A);
- c. All reasonable attorneys' fees, witness fees, court costs and other litigation costs incurred by Plaintiff pursuant to 15 U.S.C. § 1693k(a)(3); and
- d. Any other relief deemed appropriate by this Honorable Court.

## **DEMAND FOR JURY TRIAL**

PLEASE TAKE NOTICE that Plaintiff, MICHAEL SCHWARTZ, demands a jury trial in this case.

### **CERTIFICATION PURSUANT TO L.CIV.R.11.2**

I hereby certify pursuant to Local Civil Rule 11.2 that this matter in controversy is not subject to any other action pending in any court, arbitration or administrative proceeding.

DATED: 07/06/2016 KIMMEL & SILVERMAN, P.C.

By: /s/ Amy L. Bennecoff Ginsburg
AMY L. BENNECOFF GINSBURG, ESQ.
Kimmel & Silverman, P.C.
30 E. Butler Pike
Ambler, PA 19002

Phone: (215) 540-8888 Fax: (877) 788-2864

Email: aginsburg@creditlaw.com